

Before the State of South Carolina
Department of Insurance

In the matter of:

Elliott A. Harris
309 Quail Hill Drive
Hopkins, South Carolina 29061.

File Number 2003-118025

**Order Revoking
Resident Producer's License**

This matter comes before me pursuant to a recent decision from the Honorable Ray N. Stevens of the South Carolina Administrative Law Judge Division (ALJD).

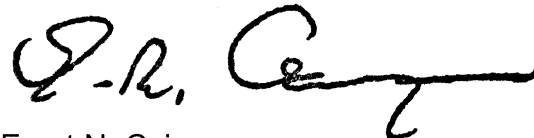
On May 29, 2003, the South Carolina Department of Insurance (the Department) served a Letter of Allegation and Notice of Opportunity for Public Hearing on Elliot A. Harris as required by S.C. Code Ann. § 38-3-170 (2002), by both certified mail, return receipt requested, and by regular mail. That letter informed Mr. Harris of his right to request a public hearing at the ALJD upon the allegations of impropriety contained within the letter against him.

Mr. Harris timely requested a hearing, which was held before Judge Stevens on October 14, 2003. On October 17, Judge Stevens ruled that Mr. Harris had indeed been convicted of a crime involving moral turpitude, that the actions which led to his conviction are inconsistent with the actions required of licensed insurance agents who must deal with the public on a regular basis, and that revocation of his resident producer license is proper under S.C. Code Ann § 38-43-130 (Supp. 2002). A copy of the decision is attached to this order for reference.

Despite its findings, Judge Stevens' decision does not appear to actually revoke Mr. Harris' license. Rather, that administrative action appears to be left to the Department. Accordingly, it is ordered that Mr. Harris' license to transact business as a resident insurance producer within the State of South Carolina be, and is hereby, revoked, and that no license issued through the Department is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Mr. Harris is currently appointed in South Carolina.

This order becomes effective as of the date of my signature below.



Ernst N. Csiszar
Director

22 October 2003, at
Columbia, South Carolina

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW JUDGE DIVISION

South Carolina Department of Insurance,
Petitioner,

Docket No. 03-ALJ-09-0284-CC

vs.

FINAL ORDER AND DECISION

Elliot A. Harris,

Respondent.

I. Introduction

The South Carolina Department of Insurance (DOI) seeks to revoke the resident insurance agent's license of Elliot A. Harris (Harris) on the ground that S.C. Code Ann § 38-43-130 authorizes such a revocation if the agent has committed a crime involving moral turpitude. After reviewing the evidence submitted and applying the applicable law, Harris' license is revoked.

II. Analysis

A. Findings of Fact:

I find, by a preponderance of the evidence, the following facts:

Harris and his fiancée hired Frederick Mark Peter (Peter) to construct a residence. However, Harris and his fiancée concluded that Peter was not constructing the house in compliance with agreed upon specifications.

On July 17, 2001, Harris met Peter at the construction site. A heated verbal exchange escalated into a physical attack in which Harris struck Peter with a board. In addition, Harris fired at least one and perhaps as many as three gunshots in an attempt to "scare" Peter who was fleeing the scene.

As a result, on July 21, 2001, an arrest warrant was issued charging Harris with the crime of assault with intent to kill. On March 19, 2003, Harris entered a guilty plea to the charge and received a seven year sentence, suspended upon service of 91 days followed by four years of probation.

B. Conclusions of Law

Based on the foregoing Findings of Fact, I conclude the following as a matter of law:

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ADMIN. LAW JUDGE DIV.

The applicable provisions of S.C. Code Ann. § 38-43-130 read as follows:

The director or his designee may revoke or suspend an agent's license after ten days' notice or refuse to reissue a license *when it appears that an agent has been convicted of a crime involving moral turpitude*, . . . (emphasis added).

For purposes of this section, "convicted" includes a plea of guilty or a plea of nolo contendere, and the record of conviction, or a copy of it, certified by the clerk of court or by the judge in whose court the conviction occurred is conclusive evidence of the conviction.

Moral turpitude is "an act of baseness, evilness, or depravity in the private and social duties which man owes to his fellow man or society in general, contrary to the customary and accepted rule of right and duty between man and man." *State v. Perry*, 294 S.C. 311, 364 S.E.2d 201 (1988). In light of that definition, Harris' guilty plea to the crime of assault with intent to kill is a conviction involving moral turpitude. See *State v. Spinks*, 260 S.C. 404, 196 S.E.2d 313, 410 (1973) (Bussey, J., dissenting) ("[A]ssault with intent to kill . . . [is an] offense[] involving moral turpitude."). See also, *Jamison v. Howard*, 275 S.C. 344, 271 S.E.2d 116 (1980) ("assault and battery with intent to kill [is] a crime involving moral turpitude.").

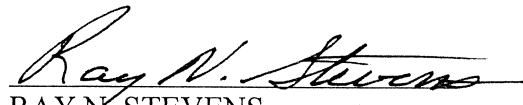
Accordingly, Harris has been convicted of a crime involving moral turpitude. Therefore, either a revocation or a suspension is proper under S.C. Code Ann § 38-43-130.

In this case, a revocation is proper. Harris' actions involved not only a physical attack but also the discharge of a firearm. Moreover, the entire incident resulted from a disagreement stemming from a business transaction. Harris' means of handling the disagreement are inconsistent with the actions required of licensed insurance agents who must deal with the public on a regular basis in a business context. Thus, the revocation sought by the DOI is warranted.

III. Order

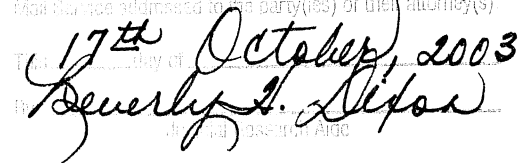
Based upon the foregoing Findings of Fact and Conclusions of Law, the Department of Insurance shall revoke the resident insurance agent's license of Elliot A. Harris.

AND IT IS SO ORDERED.


RAY N. STEVENS
Administrative Law Judge

Dated: October 17, 2003
Columbia, South Carolina

10/17/2003 10:00 AM
This is to certify that the undersigned has this date
served this order in the above entitled action upon all
parties to this cause by depositing a copy hereof,
in the United States mail, postage paid, or in the Interagency
Mail Service addressed to the party(ies) or their attorney(s)

17th October 2003

Beverly A. Dixon
Administrative Law Judge